

**REMARKS**

Claims 1-4 are pending in this application. By this Amendment, claim 1 is amended. The amendments to claim 1 introduce no new matter because they are supported by at least claims 6 and 7, as originally filed. Claims 5-7 are canceled without prejudice to, or disclaimer of, the subject matter recited in those claims. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

Applicants appreciate the courtesies shown to Applicants' representative by Examiner Kavanaugh in the June 28, 2005 personal interview. Applicants' separate record of the substance of the interview is incorporated into the following remarks.

A. The Office Action, in paragraph 2, rejects claims 1-7 under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, the Office Action indicates that, in claim 1, the phrase "front part equipped with means for securing the front of the shoe" and the term "stop means" are unclear as to whether they are referring to the same element or different elements. Applicants amend independent claim 1 to clarify the subject matter recited in that claim and to obviate the rejection.

Accordingly, reconsideration and withdrawal of the rejection of claims 1-4 under 35 U.S.C. §112, second paragraph, as being indefinite are respectfully requested.

B. The Office Action, in paragraph 4, rejects claims 1 and 3-6 under 35 U.S.C. §102(d) as being anticipated by FR 2 828 794 A to Petzl et al. (hereinafter "the '794 reference"). This rejection is respectfully traversed.

The '794 reference is a publication of a French patent application to the same inventor, filed on August 27, 2001 and published on February 28, 2003. This publication and any counterpart applications associated therewith, or deriving therefrom, are still pending.

Neither the '794 reference nor any other applications associated with this reference were patented before February 27, 2004, the filing date of this application.

In view of the foregoing, since the invention described in the '794 reference was not first patented or caused to be patented in a foreign country prior to the date of this application, the '794 reference is unavailable as a prior art reference under 35 U.S.C. §102(d).

Accordingly, reconsideration and withdrawal of the rejection of claims 1, 3 and 4 under 35 U.S.C. §102(d) as being anticipated by the '794 reference are respectfully requested.

C. The Office Action, in paragraph 5, rejects claims 1 and 5-7 under 35 U.S.C. §102(b) as being anticipated by FR 2 722 067 A (hereinafter "the '067 reference"). This rejection is respectfully traversed.

As is discussed under State of the Art in the disclosure of this application, the '067 reference teaches an ice spike in which the rear part of the armature comprises a pivoting fixing clamp which is equipped with a heel part in the form of a latch articulated on the body of the clamp. The nose of the heel part presses on the rear rim of the sole when an attachment strap is tightened.

Claim 1 recites, among other features, a rear part provided with a fixing clamp comprising a cross-bar design to latch directly onto a rear rim of the sole to secure the heel of the shoe. As such, there is no requirement for using a heel part that presses on the rear rim of the sole when an attachment strap is tightened, and a device that uses such a heel part could not reasonably be read to anticipate the subject matter of at least claim 1. The '067 reference does not disclose a rear part provided with a fixing clamp comprising a cross-bar designed to latch directly onto the rear rim of the sole to secure the heel of the shoe, as is recited in independent claim 1.

For at least this reason, the '067 reference cannot reasonably be read to teach, or even to have suggested, the combination of all of the features recited in at least independent claim 1. Accordingly, reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. §102(b) as being anticipated by the '067 reference are respectfully requested.

D. The Office Action, in paragraph 6, rejects claims 1 and 3-5 under 35 U.S.C. §102(b) as being anticipated by FR 2 575 659 A (hereinafter "the '659 reference"). This rejection is respectfully traversed.

The '659 reference teaches a quick-fix ice spike, the front part and the rear part of which are joined by an attachment system composed of two cables tensioned by an intermediate tightening loop.

Claim 1 recites, among other features, a longitudinal connecting strip between the front part and the rear part for adjusting the armature in length according to shoe size. The '659 reference does not teach, nor can it reasonably be read to have suggested, a longitudinal connecting strip between the front part and the rear part.

For at least this reason, the '659 reference fails to teach, or even to have suggested, the combination of all of the features recited in at least independent claim 1. Further, claim 3 is neither taught, nor would it have been suggested, by the '659 reference for at least the dependence of this claim on independent claim 1, as well as for the separately patentable subject matter that claim 3 recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 1 and 3 under 35 U.S.C. §102(b) as being anticipated by Leborgne are respectfully requested.

E. The Office Action, in paragraph 8, rejects claim 2 under 35 U.S.C. §103(a) as being unpatentable over either the '794 reference or the '067 reference in view of official notice. This rejection is respectfully traversed.

Official notice that fixing clamps with U-shaped wire are conventionally made out of wire, and/or steel wire, does not overcome the shortfall in the application of either of these references to at least the subject matter recited in independent claim 1. As such, claim 2 is neither taught, nor would it have been suggested, by the combinations of the applied references for at least the dependence of this claim on independent claim 1, as well as for the separately patentable subject matter that claim 2 recites.

Accordingly, reconsideration and withdrawal of the rejection of claim 2 under 35 U.S.C. §103(a) as being unpatentable over the combinations of the applied references are respectfully requested.

F. Applicants' representative presented the above claim amendments and arguments to Examiner Kavanaugh during the June 28 personal interview. The Examiner agreed to further consider the amendments and arguments upon receipt of the written response to the outstanding Office Action.

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-4 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number set forth below.

Respectfully submitted,  


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WPB:DAT

Date: July 7, 2005

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